

DEPARTMENT OF SOCIAL SERVICES

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April 19, 1983

ALL COUNTY INFORMATION NOTICE NO. 1-52-83

TO: ALL COUNTY WELFARE DEPARTMENTS
ALL PUBLIC AND PRIVATE ADOPTION AGENCIES
ALL DEPARTMENT OF SOCIAL SERVICES ADOPTION DISTRICT OFFICES

SUBJECT: Laws Relating to Adoptions - 1982

The purpose of this information notice is to summarize statutory changes made in 1982 having an impact on the adoption program.

If you have questions regarding these summaries, please contact your adoptions program consultant.

A handwritten signature in cursive script that reads 'Claude Finn'.

CLAUDE FINN
Deputy Director
Adult and Family Services Division

Attachment

cc: CWDA

Chapter 1051, Statutes of 1982 (Moore, AB 2384)

This legislation adds sections 275 and 276 to the Civil Code, allowing the State Department of Social Services to establish regulations to set priorities for the placement of children in foster care and for adoption, reflecting consideration of racial background, ethnic heritage, religious and cultural heritage of a child, as well as geographic proximity, which for foster care is specified as proximity to the natural parents.

The law specifies that these priorities shall not be the basis for undue delay in the placement of a child or disruption of long term foster care placement. The law also prohibits the priorities from being construed as categorically prohibiting placement across lines of race, ethnicity, religion, cultural heritage and geographic proximity.

Chapter 977, Statutes of 1982 (Moore, AB 2695)

This legislation, which became effective on October 1, 1982, on an emergency basis, was necessary to achieve compliance with the Federal Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272). It makes necessary changes in the Civil, Health and Safety, and the Welfare and Institutions Codes.

Section 224n of the Civil Code is amended to allow for the filing of an interlocutory decree of adoption which is required if a child is to receive aid under the Adoption Assistance Program prior to finalization of the adoption. The law specifies that the Department or licensed adoption agency to which a child has been freed for adoption by relinquishment or termination of parental rights shall be responsible for the care of the child and shall be entitled to exclusive custody and control of the child until the granting of an interlocutory or final decree of adoption. Procedures for obtaining a court order rescinding the interlocutory, if necessary, are specified. An interlocutory decree becomes a final decree in 12 months unless the period is shortened or extended for good cause. An extension may not exceed six months. Provisions regarding Department or licensed adoption agency consent to an adoption remain the same.

Section 226 of the Civil Code is amended to require the clerk of the Superior Court to notify the Department of the date on which an interlocutory decree has become a final decree of adoption. No other changes were made in the section.

Section 10430 of the Health and Safety Code is amended to include a requirement that the clerk of the Superior Court shall report to the State Registrar within 5 days after an interlocutory decree of adoption becomes a final decree and no earlier. Other reporting requirements remain the same.

The legislation adds subdivision (e) to Section 300 of the Welfare and Institutions Code giving the juvenile court jurisdiction over a minor who has been freed from one or both parents for 12 months by either relinquishment or termination of parental rights and for whom an interlocutory decree of adoption or a petition for adoption has not been granted. Section 300.1 is added to the Code which states that family reunification services shall not be provided to a minor adjudged a dependent under Section 300(e).

Subsection (b) is added to Section 258 of the Welfare and Institutions Code to provide for permanency planning hearings under Section 366.25 of the W&I Code for those minors who have been freed from one or both parents for 12 months by either relinquishment or termination of parental rights but for whom an interlocutory decree or adoption petition has not been granted.

Section 16115 of the Welfare and Institutions Code is amended by changing the name of the financial aid program to the Adoption Assistance Program. Section 16115.5 which contains a statement of legislative intent, is amended to eliminate the reference to a temporary payment to selected adoptive parents. The section now states, in part, that "the intent of the program is to provide permanent homes for hard-to-place children".

Section 16116 defines a hard-to-place child as a child whose adoption without financial assistance would be unlikely because of adverse parental background, ethnic background, race, color, language, membership in a sibling group which should remain intact, mental, physical, medical or emotional handicaps or age of three or more.

Section 16118 of the Welfare and Institutions Code is amended to provide:

- a. that the Department shall establish and administer the AAP to be carried out by the Department or any licensed adoption agency and shall adopt regulations to carry out the program.
- b. that the Department shall keep records as necessary to evaluate the program.
- c. that the Department or licensed adoption agency which has custody of the child shall certify that the child meets the hard-to-place criteria and shall determine the amount of aid needed.
- d. that the county which would have paid AFDC for the child if there were no adoption is the county responsible for determining eligibility for AAP and providing financial aid. For other eligible children, the county where the child was residing prior to placement is responsible for AAP.
- e. that the Department shall seek and make maximum use of federal funds available for AAP, and that all private gifts or grants received shall be used to offset the cost of the program.

Section 16120 is added to the Welfare and Institutions Code specifying the following conditions necessary for the payment of AAP:

- a. The Department or licensed adoption agency and the prospective adoptive parents have signed an adoption assistance agreement which states the need for aid and the amount of the aid. In addition, the agreement shall include the duration of aid, the responsibility of the adopting family for reporting changes in financial circumstances, and the periodic recertification required for re-evaluating continuing need.
- b. The child is under 18, or under 21 and has a mental or physical handicap which warrants the continuation of assistance.

- c. The adoptive family is responsible for the child pursuant to an adoption assistance agreement and an interlocutory or a final decree of adoption.
- d. The adoptive family is legally responsible for the support of the child and the child is receiving support from the adoptive parent.

Section 16121 is added to the Welfare and Institutions Code which provides:

- a. That the amount of adoption aid paid shall take into account the child's needs and the family's circumstances but shall not exceed the foster care rate which would have been paid if adoption had not occurred. The parents are required to report to the adoption agency any substantial change in financial circumstances or need.
- b. That aid begin on or after the effective date of the interlocutory or final decree of adoption.
- c. That Aid for Adoption of Children shall be continued for all agreements executed prior to 10/1/82, however, such agreements may not be renewed to exceed a total of five years of benefits with the exception of aid paid for a chronic health condition which necessitated the initial granting of AAC. For aid related to chronic health conditions present at the initial granting of aid, the parents may ask the Department or agency for a continuation of aid until the child is 18. If such a request is received the agency must reevaluate the ability of the parents to meet the medical needs of the child taking community resources into consideration.

Section 16123 specifies a 5 year limit on the length of AAP payments should funds under Title IV-E of the Social Security Act cease to be available, however, it allows for the continuation of payment at the request of the adoptive parents in the event of a chronic health condition which necessitated the initial assistance.

Other major provisions of the statute are:

- 1. A requirement for 6 month reviews and 18 month premanency planning hearings for a child receiving AFDC-FC.
- 2. Effective 10/1/83, preplacement preventive services are required for children receiving AFDC-FC, except those children who have been voluntarily relinquished for adoption or freed from one or both parents by court action.
- 3. A requirement for a statewide uniform basic rate structure for foster homes with a category of specialized care rates.
- 4. Authorizes the department to administer rate setting for group homes effective 7/1/83.
- 5. A requirement that rate controls for group homes be developed by 7/1/84.

Chapter 990, Statutes of 1982 (Farr, AB 3040)

This legislation effective January 1, 1983, amends several unrelated sections in the Civil Code and the Welfare and Institutions Code.

Section 1 adds section 230.6 to the Civil Code allowing the Department or licensed adoption agencies to arrange contact among an adult adoptee, his or her natural parent and any living adoptive parent after each has filed a written waiver of his or her rights to confidentiality of adoption records with the Department or licensed adoption agency. The statute prohibits the Department or licensed adoption agencies from soliciting either directly or indirectly the execution of a waiver.

Section 2 amends section 232.3 of the Civil Code to provide that freedom from parental custody actions shall be heard within 45 days after filing of notification and completion of service. Such matters are to have precedence over all other civil matters on the date set for trial. A continuance of no more than 30 days is permitted to appoint counsel and allow counsel to become acquainted with the case. The law specifies the conditions under which other continuances shall be granted.

Sections 3, 3.1, 3.2 and 3.3 amend Section 11400 of the Welfare and Institutions Code with a series of definitions pertaining to the provision of permanency planning services for children in foster care. The two definitions having a direct bearing on the adoption program are:

"Voluntary placement" means an out-of-home placement of a minor by (1) the county welfare department after the parents or guardians have requested the assistance of the county welfare department and have signed a voluntary placement agreement; or (2) the county welfare department, a licensed public or private adoption agency, or the Department acting as an adoption agency, after the parents have requested the assistance of any of these agencies for the purpose of adoption planning and have signed a voluntary placement agreement.

"Voluntary placement agreement" means a written agreement between either the county welfare department, a licensed public or private adoption agency or the Department acting as an adoption agency, and the parents or guardians of a minor which specifies the terms of the voluntary placement.

Chapter 773, Statutes of 1982 (Moore, AB 3567)

This legislation adds Section 2240 to the Civil Code requiring that the Department or licensed adoption agency advise a parent on or before signing a relinquishment or consent verbally and in writing that he or she may at any time in the future request all known information about the status of the child's adoption except for personal, identifying information about the adopting family. The parent shall be advised that the information includes, but is not limited to the following: (1) whether the child has been placed for adoption, (2) the approximate date the adoption was completed, and (3) if the adoption was not completed, or was vacated for any reason, whether adoptive placement of the child is again being considered.

Chapter 978, Statutes of 1982 (Presley, SB 14)

This legislation, which was necessary to bring California into conformity with federal legislation, P.L. 96-272, became effective on an emergency basis on September 13, 1982 (Emergency regulations became effective October 1, 1982.)

In general, the law modifies juvenile court proceedings and jurisdiction, and expands social service programs for children with emphasis on reunification and permanency planning for children in foster care. Effective 10/1/83, preplacement preventive services will be required. The overall goal of the legislation is to reduce the number of children in foster care.

The following sections of Chapter 978 specifically affect the adoption program:

- Sec. 1. Civil Code Section 232, subsection (a)(7) is amended to reduce from two to one year the length of time a child must live in foster care before action may be initiated to terminate parental rights, if the court determines that reasonable services have been provided or offered to the parent or guardians.
- Sec. 27. Section 366.25 is added to the Welfare and Institutions Code requiring a permanency planning hearing to make a determination regarding the future status of a minor no later than 12 months after the original placement in foster care and periodically but no less frequently than each 18 months while in foster care.

If the court finds that a minor is adoptable, the court shall order commencement of proceedings to free the minor from his parents or guardians unless any of the following conditions exist:

- 1) The parents or guardians have maintained regular visitation contact with the minor and the minor would benefit from continuing the relationship.
- 2) A minor who is twelve years or older objects to the termination of parental rights.
- 3) The minor's foster parents are unable to adopt the minor because of exceptional circumstances but can provide a stable and permanent environment and the removal of the minor from the custody of the foster parents would be seriously detrimental to the emotional well-being of the minor.

Other plans to be considered when reunification is not possible are legal guardianship and permanent foster home placement.

Section 366.25(f) provides that when an adoption of the minor has been granted, the court shall terminate its jurisdiction over the minor. Subsection (i) exempts a minor from permanency planning hearing if action under Civil Code 232 or action to establish legal guardianship has been commenced.

- Sec. 34. Section 16500 of the Welfare and Institutions Code is amended to require the State, through the department and county welfare departments, to establish statewide child welfare services. Section 35, W&I Code Section 16501 (e) requires that such services include "identifying children to be placed in suitable adoptive homes, in cases where restoration to the biological family is not possible or appropriate..."

- Sec. 57. Section 16507.6 pertaining to children voluntarily placed in out of home care by the county welfare departments at the request of their parents or guardian, is added to the Welfare and Institutions Code. For those children placed subsequent to 1/1/82 and in placement for 6 months, the agency must take one of the following courses of action:

- a. Return the minor to the custody of his or her parents or guardian.
- b. Refer the minor to a licensed adoption agency for consideration of adoption and relinquishment.
- c. File a petition with the juvenile court to have the minor declared a dependent under Section 300.

For children voluntarily placed before 1/1/81, the six-month time period begins 10/1/82.